



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/931,629

08/16/2001

Steven Dale Goodman

RPS9 2001 0046

2708

45211

7590

08/09/2006

KELLY K. KORDZIK
WINSTEAD SECHREST & MINICK PC
PO BOX 50784
DALLAS, TX 75201

EXAMINER

CHAI, LONGBIT

ART UNIT

PAPER NUMBER

2131

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action
After the Filing of an Appeal Brief

Application No.

09/931,629

Examiner

Longbit Chai

Applicant(s)

GOODMAN ET AL.

Art Unit

2131

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The reply filed 31 July 2006 is acknowledged.

1. ☐ The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:

a. ☐ The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).

b. ☐ The affidavit or other evidence is not timely filed before the filing of an appeal brief.
See 37 CFR 41.33(d)(2).

2. ☐ The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences for further consideration of rejection (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. ☒ The reply is entered. An explanation of the status of the claims after entry is below or attached.

4. ☐ Other: _____

***Response to argument
on Reply Appeal Brief***

1. The Reply Brief filed July 31, 2006 has been acknowledged. Examiner notes Appellants' argument has been fully considered and has been entered. The response to the argument is presented as follows.
2. Appellants have alleged that the Alexander reference does not provide any teaching or suggestion regarding a need using a TPM as taught by Grawrock. In response to appellant's argument that there is no suggestion to combine the references of Alexander and Grawrock, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071 , 5 USPQZd 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQZd 1941 (Fed. Cir. 1992). In this case, motivation for the combination can be found in the Grawrock reference. As noted in the prior Final office actions (filed September 20, 2005), (a) Alexander provides a mechanism for BIOS update (i.e. boot block update) (Alexander: Column 5 Line 9 – 64) and (b) Grawrock's TPM provides the advantage of allowing the accurate reporting of the identity of a boot block or utility without reliance on any intervening devices (Grawrock: Column 2 Lines 1 – 6). Besides, Grawrock's TPM also provides the further advantage for boot block update by allowing for the detection of modifications to


Art Unit: 2131

information regarding the boot process originating from the boot block or replacement / update of the ROM itself (Grawrock: Column 1 Lines 43 – 49). This is a distinct advantage over previous systems because updates to a boot block can be verified instead of previous systems where only the original boot block is verifiable. Thus, Examiner maintains that the Grawrock reference provides ample motivation for the combination of Alexander and Grawrock, and as a result the combination is proper and the obviousness can be taken into account with knowledge which was within the level of ordinary skill at the time the claimed invention was made and as such the examiner's conclusion of obviousness is not based upon improper hindsight reasoning. Therefore, Appellants' arguments are respectfully traversed.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Longbit Chai



AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100